



6712-01

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email PRA@fcc.gov <mailto:PRA@fcc.gov> and to Cathy.Williams@fcc.gov <mailto:Cathy.Williams@fcc.gov>.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-xxxx.

Title: Section 79.107 User Interfaces Provided by Digital Apparatus; Section 79.108 Video Programming Guides and Menus Provided by Navigation Devices; Section 79.110 Complaint Procedures for User Interfaces, Menus and Guides, and Activating Accessibility Features on Digital Apparatus and Navigation Devices.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities; individuals or households; not-for-profit institutions; and State, local, or tribal Governments.

Number of Respondents and Responses: 4,245 respondents; 509,484 responses.

Estimated Time per Response: 0.0167 to 5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement; Recordkeeping requirement.

Obligation to Respond: Voluntary. The statutory authority for this information collection is contained in the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111-260, 124 Stat. 2751, and sections 4(i), 4(j), 303(r), 303(u), 303(aa), 303(bb), and 716(g) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 303(u), 303(aa), 303(bb), and 617(g).

Total Annual Burden: 22,198 hours.

Total Annual Cost: \$70,500.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's updated system of records notice (SORN), FCC/CGB-1, "Informal Complaints and Inquiries," which became effective on January 25, 2010. The Commission believes that it provides sufficient safeguards to protect the privacy of individuals who file complaints under 47 CFR 79.110.

Privacy Impact Assessment: The Privacy Impact Assessment (PIA) for Informal Complaints and Inquiries was completed on June 28, 2007. It may be reviewed at <http://www.fcc.gov/omd/privacyact/Privacy-Impact-Assessment.html>. The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

Needs and Uses: On October 29, 2013, the Commission released a Report and Order and Further Notice of Proposed Rulemaking, MB Docket Nos. 12-108, 12-107, FCC 13-138 (the Report and Order) adopting rules implementing portions of the Twenty-First Century Communications and Video Accessibility Act of 2010 (the CVAA) related to the accessibility of digital apparatus and navigation devices used to view video programming. These rules are codified at 47 CFR 79.107, 79.108, 79.109 and 79.110. Pursuant to Section 204 of the CVAA, the Report and Order requires the user interfaces, text menus and guides of digital apparatus to be accessible and requires that the activation mechanisms for closed captioning and video description be reasonably comparable to a button, key or icon. Pursuant to Section 205 of the CVAA, the Report and Order requires the user text menus and guides of navigation devices be made audibly accessible upon request and requires that the activation mechanism for closed captioning be reasonably comparable to a button, key or icon.

The following rule sections and other requirements contain new and revised information collection requirements for which the Commission is seeking approval from the Office of Management and Budget (OMB):

(a) Requests for Commission determination of achievability for the accessibility requirements for the user interfaces, text menus and guides of digital apparatus.

Section 204 of the CVAA provides that “if achievable (as defined by section 716) . . . digital apparatus designed to receive or play back video programming transmitted in digital format simultaneously with sound, including apparatus designed to receive or display video programming transmitted in digital format using Internet protocol, be designed, developed, and fabricated so that control of appropriate built-in apparatus functions are accessible to and usable by individuals who

are blind or visually impaired.” Pursuant to 47 CFR 79.107, manufacturers of digital apparatus must comply with the section’s provisions “only if *achievable* as defined in § 79.107(c)(2).”

Pursuant to 47 CFR 79.107(c)(1), manufacturers of digital apparatus may petition the Commission, pursuant to 47 CFR 1.41, for a full or partial exemption from the requirements of 47 CFR 79.107 before manufacturing or importing the apparatus. Alternatively, manufacturers may assert that a particular digital apparatus is fully or partially exempt as a response to a complaint, which the Commission may dismiss upon a finding that the requirements of section 79.107 are not achievable. Pursuant to 47 CFR 79.107(c)(2), such a petition for exemption or a response to a complaint must be supported with sufficient evidence to demonstrate that compliance with the requirements is not achievable (meaning with reasonable effort or expense), and the Commission will consider four specific factors when making such a determination. In evaluating evidence offered to prove that compliance is not achievable, the Commission will be informed by the analysis in the Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557, 14607-19, ¶¶ 119-48 (2011) (“ACS Order”).

(b) Requests for Commission determination of achievability for the accessibility requirements for the text menus and guides of navigation devices.

Section 205 of the CVAA provides that “if achievable (as defined by section 716)” “the on-screen text menus and guides provided by navigation devices (as such term is defined in section 76.1200 of title 47, Code of Federal Regulations) for the display or selection of multichannel video programming are audibly accessible in real-time upon request by individuals who are blind or

visually impaired.” Pursuant to 47 CFR 79.108, MVPDs and manufacturers of navigation devices must comply with the section’s provisions “only if *achievable* as defined in § 79.108(c)(2).”

Pursuant to 47 CFR 79.108(c)(1), MVPDs and manufacturers of navigation devices may petition the Commission, pursuant to 47 CFR 1.41, for a full or partial exemption from the requirements of 47 CFR 79.108 before manufacturing or importing the navigation device. Alternatively, manufacturers may assert that a particular digital apparatus is fully or partially exempt as a response to a complaint, which the Commission may dismiss upon a finding that the requirements of section 79.108 are not achievable. Pursuant to 47 CFR 79.108(c)(2), such a petition for exemption or a response to a complaint must be supported with sufficient evidence to demonstrate that compliance with the requirements is not achievable (meaning with reasonable effort or expense), and the Commission will consider four specific factors when making such a determination. In evaluating evidence offered to prove that compliance is not achievable, the Commission will be informed by the analysis in the ACS Order.

(c) Requests to MVPDs and navigation device manufacturers for accessible equipment.

Pursuant to 47 CFR 79.108(a)(5), manufacturers of navigation devices and MVPDs must permit blind or visually impaired individuals to request accessible navigation devices through any means that such covered entities generally use to make available navigation devices to other consumers. Such requests could require navigation device manufacturers and MVPDs to collect information from consumers and require consumers to provide information to navigation device manufacturers and/or MVPDs to obtain a benefit.

(d) Notifications by MVPDs regarding the availability of accessible equipment.

Pursuant to 47 CFR 79.108(d), MVPDs must notify consumers that navigation devices with the required accessibility features are available upon request to consumers who are blind or visually impaired. MVPDs must clearly and conspicuously inform consumers about the availability of accessible navigation devices when providing information about equipment options in response to a consumer inquiry about service, accessibility, or other issues. In addition, MVPDs must provide prominent notice on their official websites about the availability of accessible navigation devices in a manner accessible to people with disabilities.

(e) Contact information for the receipt and handling of user interface accessibility complaints.

Pursuant to 47 CFR 79.110(b), covered entities must make their contact information available for the receipt and handling of complaints regarding the requirements of 47 CFR 79.107 - 79.109. The contact information required must include the name of a person with primary responsibility for accessibility compliance issues. This contact information must also include that person's title or office, telephone number, fax number, postal mailing address, and e-mail address. A covered entity must keep this information current and update it within 10 business days of any change.

(f) Submission and review of verification of consumer eligibility in connection with accessibility solutions provided by sophisticated equipment and/or services at a price lower than that offered to the general public.

Pursuant to 47 CFR 79.108(e), covered entities may require consumers to provide verification of eligibility as an individual who is blind or visually impaired to the extent a covered entity chooses to rely on an accessibility solution that involves providing the consumer with sophisticated equipment and/or services at a price that is lower than that offered to the general public. In these situations, covered entities must allow a consumer to provide a wide array of documentation to verify

eligibility for the accessibility solution provided and must comply with the requirements of 47 U.S.C. 338(i)(4)(A) and 47 U.S.C. 631(c)(1) to protect personal information gathered from consumers through verification procedures.

(g) Complaints alleging violations of the digital apparatus and navigation device accessibility rules.

The Report and Order adopts procedures for consumers to file complaints alleging violations of the rules requiring the accessibility of user interfaces, text menus and guides of digital apparatus and navigation devices requirements.

Pursuant to 47 CFR 79.110(a)(1), a complaint alleging a violation of the requirements of 47 CFR 79.107, 79.108, or 79.109 must be filed with the Commission or with the covered entity within 60 days after the date the complainant experiences a problem relating to compliance with the requirements of 47 CFR 79.107, 79.108, or 79.109. A complaint filed with the Commission may be transmitted to the Consumer and Governmental Affairs Bureau by any reasonable means, such as the Commission's online informal complaint filing system, letter, facsimile, telephone (voice/TRS/TTY), e-mail, or some other method that would best accommodate the complainant's disability. (Because some of the rules we are adopting are intended to make apparatus or navigation devices accessible to individuals who are blind or visually impaired, and therefore complainants may themselves be blind or visually impaired, if a complainant calls the Commission for assistance in preparing a complaint, Commission staff will document the complaint in writing for the consumer.)

Pursuant to 47 CFR 79.110(a)(2), complaints should include the following information:

(i) The complainant's name, address, and other contact information, such as telephone number and

e-mail address;

- (ii) The name and contact information of the covered entity;
- (iii) Information sufficient to identify the software or digital apparatus/navigation device used;
- (iv) The date or dates on which the complainant purchased, acquired, or used, or tried to purchase, acquire, or use the digital apparatus/navigation device;
- (v) A statement of facts sufficient to show that the covered entity has violated, or is violating, the Commission's rules;
- (vi) The specific relief or satisfaction sought by the complainant;
- (vii) The complainant's preferred format or method of response to the complaint; and
- (viii) If a complaint pursuant to § 79.108 of this part, the date that the complainant requested an accessible navigation device and the person or entity to whom that request was directed.

Pursuant to 47 CFR 79.110(a)(3), if a complaint is filed first with the Commission, the Commission will forward a complaint satisfying the above requirements to the named covered entity for its response, as well as to any other entity that Commission staff determines may be involved. The covered entity or entities must respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.

Pursuant to 47 CFR 79.110(a)(4), if a complaint is filed first with the covered entity, the covered entity must respond in writing to the complainant within 30 days after receipt of a complaint. If the covered entity fails to respond to the complainant within 30 days, or the response does not satisfy the consumer, the complainant may file the complaint with the Commission within 30 days after the

time allotted for the covered entity to respond. If the consumer subsequently files the complaint with the Commission (after filing with the covered entity) and the complaint satisfies the requirements, the Commission will forward the complaint to the named covered entity for its response, as well as to any other entity that Commission staff determines may be involved. The covered entity must then respond in writing to the Commission and the complainant within 30 days after receipt of the complaint from the Commission.

Pursuant to 47 CFR 79.110(a)(5), in response to a complaint, the covered entity must file with the Commission sufficient records and documentation to prove that it was (and remains) in compliance with the Commission's rules. Conclusory or insufficiently supported assertions of compliance will not carry the covered entity's burden of proof. If the covered entity admits that it was not, or is not, in compliance with the Commission's rules, it must file with the Commission sufficient records and documentation to explain the reasons for its noncompliance, show what remedial steps it has taken or will take, and show why such steps have been or will be sufficient to remediate the problem.

Pursuant to 47 CFR 79.110(a)(6), the Commission will review all relevant information provided by the complainant and the covered entity, as well as any additional information the Commission deems relevant from its files or public sources. The Commission may request additional information from any relevant parties when, in the estimation of Commission staff, such information is needed to investigate the complaint or adjudicate potential violations of Commission rules. When the Commission requests additional information, parties to which such requests are addressed must provide the requested information in the manner and within the time period the Commission specifies.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

BILLING CODE 6712-01-P

[FR Doc. 2014-13439 Filed 06/09/2014 at 8:45 am; Publication Date: 06/10/2014]